

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

ADRIAN DUERSON.

Plaintiff,

V.

SUNRISE CHILDREN'S FOUNDATION.

Defendant.

Case No. 2:17-cv-01792-JCM-PAL

REPORT OF FINDINGS AND RECOMMENDATION

This matter is before the court on Plaintiff Adrian Duerson's failure to comply with the court's Order (ECF No. 3). This proceeding is referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4 of the Local Rules of Practice.

Mr. Duerson submitted a proposed complaint as part of his initiating documents (ECF No. 1) on June 29, 2017, but he did not submit an application to proceed *in forma pauperis* (“IFP”) or remit the \$400 filing fee. On July 17, 2017, the court entered an Order (ECF No. 3) directing the Clerk of the Court to mail Duerson a blank IFP application, and allowing him to submit the IFP application or pay the \$400 filing fee on or before August 11, 2017. *Id.* Additionally, the court found that the proposed complaint failed to include any factual allegations and therefore failed to state a valid claim. The court allowed Mr. Duerson until August 11, 2017, to file an amended complaint. The Order warned him that (1) a failure to file an IFP application or pay the filing fee, or (2) a failure to file an amended complaint addressing the deficiencies explained by the court would result in a recommendation to the district judge that this case be dismissed.

To date, Duerson has not filed a completed IFP application or amended complaint, paid the filing fee, requested an extension of time, or taken any other action to prosecute this case.

Accordingly,

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IT IS RECOMMENDED that:

1. This action be DISMISSED without prejudice to Plaintiff Adrian Duerson's ability to commence a new action in which he submits a complaint alleging colorable claims and either pays the appropriate filing fee in full or submits a completed application to proceed *in forma pauperis*.
 2. The Clerk of the Court be instructed to close this case and enter judgment accordingly.

Dated this 8th day of September, 2017.

Peggy A. Teer
PEGGY ALEEN
UNITED STATES MAGISTRATE JUDGE

NOTICE

This Report of Findings and Recommendation is submitted to the assigned district judge pursuant to 28 U.S.C. § 636(b)(1) and is not immediately appealable to the Court of Appeals for the Ninth Circuit. Any notice of appeal to the Ninth Circuit should not be filed until entry of the district court's judgment. *See Fed. R. App. Pro. 4(a)(1).* Pursuant to LR IB 3-2(a) of the Local Rules of Practice, any party wishing to object to a magistrate judge's findings and recommendations shall file and serve *specific written objections*, together with points and authorities in support of those objections, within 14 days of the date of service. *See also 28 U.S.C. § 636(b)(1); Fed. R. Civ. Pro. 6, 72.* The document should be captioned "Objections to Magistrate Judge's Report of Findings and Recommendation," and it is subject to the page limitations found in LR 7-3(b). The parties are advised that failure to file objections within the specified time may result in the district court's acceptance of this Report of Findings and Recommendation without further review. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). In addition, failure to file timely objections to any factual determinations by a magistrate judge may be considered a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the recommendation. *See Martinez v. Ylst*, 951 F.2d 1153, 1156 (9th Cir. 1991); Fed. R. Civ. Pro. 72.